

Internal Revenue Service

Department of the Treasury
P.O. Box 260, Newark, N.J. 07101

District
Director

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DENIAL
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Person to Contact:

Telephone Number:

Report to:

File

1 OCT 1981

Gentlemen:

We have considered your application for exemption from Federal income tax under the provisions of Section 501(a) and as an organization described in Section 501(c)(3) of the Internal Revenue Code.

Section 501(c)(3) of the Code exempts organizations "...organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational, ...no part of the net earnings of which inures to the benefit of any private shareholder or individual..."

Income Tax Regulations 1.501(c)(3)-1(d)(1)(ii) indicate that in order to meet the operational test, an organization must be engaged in activities furthering "public" purposes, rather than private interests. It must not be operated for the benefit of designated individuals or the persons who created it.

In your organization's case, the operational test has not been met since the van pool is operated exclusively for the private benefit of the members and is not operated exclusively for any exempt purpose set forth in Section 501(c)(3) of the Code. When a group of individuals associate to provide a service for themselves, they are serving a private interest. By providing transportation for members, the organization enables the participants to fulfill their individual responsibility of getting to and from their place of employment. Revenue Ruling 69-175 prohibited exemption to a nonprofit organization formed by parents of pupils attending a private school that provided transportation for its members' children. In addition, your Certificate of Incorporation does not contain a proper dissolution clause and limited power provision. Accordingly, it is held that you are not exempt from Federal income tax under Section 501(c)(3) of the Code.


If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part, that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

In that event, we will notify the appropriate State officials, as required by section 6104(c) of the Code, that based on the information we have available we are unable to recognize you as an organization described in Code section 501(c)(3).

Publication 892 accompanies this letter and describes your appeal rights fully, should you decide to appeal this determination. If we do not hear from you within thirty days this will become our final determination in the matter.

You will be required to file Federal income tax returns on Form 1120 (or other appropriate form) within two and one-half months following the end of your annual accounting period.

Sincerely yours,


District Director

Attachment:
Publication 892